

रजिस्टर्ड न० पी० ६७



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बृहस्पतिवार, १ अगस्त, १९६८/१० आश्विन, १८९०

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATION

Simla-4, the 9th July, 1968

No. 1-40/68-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business for the Himachal Pradesh Legislative Assembly,

1964 "The Himachal Pradesh General Sales Tax Bill, 1968 (Bill No. 29 of 1968)" as introduced in the Himachal Pradesh Legislative Assembly on the 9th July, 1968 is hereby published in the Himachal Pradesh Government Gazette.

SURENDRANATH,
Under Secretary.

Bill No. 29 of 1968

THE HIMACHAL PRADESH GENERAL SALES TAX BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the levy of a general tax on the sale or purchase of goods in Himachal Pradesh and for the repeal of the corresponding Acts as at present in force.

BE it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh General Sales Tax Act, 1968.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Assessing Authority" means any person authorised by the State Government to make any assessment under this Act;

(b) "Commissioner" means the Excise and Taxation Commissioner appointed under sub-section (1) of section 3;

(c) "dealer" means any person including a department of Government who in the normal course of trade sells or purchases any goods that are actually delivered for the purpose of consumption in the Union territory of Himachal Pradesh, irrespective of the fact that the main place of business of such person is outside the said territory and where the main place of business of any such person is not in the said territory, dealer includes the local manager or agent of such person in Himachal Pradesh in respect of such business;

Explanations.—(1) A co-operative society or a club or any association which sells or supplies goods to its members or purchases goods specified in Schedule 'C', is a dealer within the meaning of this clause.

(2) A factor, a broker, a commission agent, a dealer's agent, an auctioneer or any other mercantile agent by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of selling, supplying or purchasing goods and who has, in the customary course of business, authority to sell goods belonging to principals or to purchase goods on their behalf is a dealer.

(3) For the purpose of this clause, "Government" will include the Central Government or the Government of any other State or Union territory.

(d) "declared goods" shall have the meaning assigned to that expression in clause (c) of section 2 of the Central Sales Tax Act, 1956;

(e) "goods" means all kinds of movable property other than newspapers, actionable claims, stocks, shares or securities;

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- (f) "notification" means notification published under proper authority in the Rajpatra, Himachal Pradesh;
 - (g) "prescribed" means prescribed by rules made under this Act;
 - (h) "purchase" with all its grammatical, or cognate expressions, means the acquisition of goods for cash or deferred payment or other valuable consideration otherwise than under a mortgage, hypothecation, charge or pledge;
 - (i) "registered" means registered under this Act;
 - (j) "sale" means any transfer of property in goods for cash or deferred payment or other valuable consideration, but does not include a mortgage, hypothecation, charge or pledge;
- Explanation.*—transfer of goods on hire purchase or other instalment system of payment shall, notwithstanding that the seller retains a title to any goods as security for payment of the price, be deemed to be a sale;
- (k) "Schedule" means a Schedule to this Act;
 - (l) "State Government" or "Government" means the Government of Himachal Pradesh;
 - (m) "turnover" includes,—

- (i) the aggregate of the amounts of sales and purchases and parts of sales and purchases actually made by any dealer during the given period less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of, or before, delivery thereof;

Explanations.—(1) The proceeds of any sale made outside Himachal Pradesh by a dealer, who carries on business both inside and outside Himachal Pradesh, shall not be included in the turnover.

- (2) The turnover of any dealer in respect of transactions of forward contracts, in which goods are actually not delivered, shall not be included in the turnover;
- (3) The proceeds of sale of any goods on the purchase of which tax is leviable under this Act, or the purchase value of any goods on the sale of which tax is leviable under this Act, shall not be included in the turnover of a dealer;
- (n) "year" means the financial year;
- (o) "import" means the bringing of goods into Himachal Pradesh from any place outside its limits.

Taxing 40
authorities.

3. (1) For carrying out the purposes of this Act, the State Government may appoint a person to be Excise and Taxation Commissioner, and such other persons to assist him as it thinks fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Incidence of
taxation.

4. (1) Subject to the provisions of sections 6, section 7 and sub-section (2) of section 12, every dealer (except one dealing exclusively in goods declared tax free under section 7) whose gross turnover during the year immediately preceding the commencement of this Act exceeded the taxable quantum shall be liable to pay tax under this Act on all sales effected and purchases made after the coming into force of this Act.

(2) Every dealer to whom sub-section (1) does not apply or who does not deal exclusively in goods declared to be tax free under section 7 shall be liable to pay tax under this Act on the expiry of 30 days after the date on which his gross turnover during any year first exceeds the taxable quantum:

Provided that in the case of a dealer who imports any goods for sale or use in manufacturing or processing, or who manufactures or processes any goods for sale, the liability to pay tax shall commence with effect from the date on which his gross turnover during any year first exceeds the taxable quantum.

(3) Notwithstanding anything contained in sub-sections (1) and (2), no tax on the sale of any goods shall be levied if a tax on their purchase is payable under this Act.

(4) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years during each of which his gross turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of this later period his liability to pay tax shall cease.

(5) Every dealer, whose liability to pay tax has ceased under the provisions of sub-section (4), shall again be liable to pay tax under this Act with effect from the date on which his gross turnover first exceeds the taxable quantum.

(6) In this Act, the expression "taxable quantum" means:—

- (a) in relation to any dealer who imports for sale or use in manufacturing or processing any goods in Himachal Pradesh, Nil;
- (b) in relation to any dealer, who himself manufactures or produces any goods for sale, 10,000 rupees;
- (c) in relation to any dealer, who runs a tandoor, loh, dhaba, hotel, restaurant, halwai shop, bakery or other similar establishment wherein Indian food preparations including tea, are served, 25,000 rupees;
- (d) in relation to any particular classes of dealers not falling within clause (a), (b) and/or (c), such sum as may be prescribed; or
- (e) in relation to any other dealer, 40,000 rupees:

Provided that the registration of dealers already registered under this clause shall not be cancelled until their turnover in each of three consecutive years does not entitle them to cancellation under clause (b) of sub-section (6) of section 8.

5. A dealer registered under the Central Sales Tax Act, 1956 who is not liable to pay tax under section 4 shall nevertheless be liable to pay tax under this Act on any sale or purchase made by him inside the Union territory of Himachal Pradesh:

Provided that nothing herein shall apply to a dealer who deals exclusively in goods declared tax free under section 7.

Liability of a dealer registered under Parliament Act No. 74 of 1956 to pay tax.

6. (1) Subject to the provisions of this Act, there shall be levied on taxable turnover of a dealer a tax at such rates not exceeding six paise in a rupee as the Government may, by notification, direct:

Rate of tax.

Provided that a tax at such rate not exceeding 10 paise in a rupee, as may be so notified, may be levied on the sale of luxury goods as specified in Schedule 'A' from such date as the Government may, by notification, direct. The Government, after giving by notification not less than thirty days' notice of its intention so to do, may, by like notification, add to or delete from this Schedule, and thereupon this Schedule shall be deemed to have been amended accordingly:

Provided further that the rate of tax in respect of all declared goods, shall, unless a lower rate is fixed by the Government, by notification, be the maximum rate specified in clause (a) of section 15 of the Central Sales Tax Act, 1956, and such tax shall be leviable and payable at the stage of sale or purchase, as the case may be, and under the circumstances specified against such goods in Schedule 'D':

Provided further that in the case of goods specified in Schedule 'C', the tax shall be leviable and payable on the purchase thereof.

(2) The Government may, by notification, direct that in respect of such goods, other than the goods specified in Schedules 'C' and 'D', and with effect from such date as may be specified in the notification, the tax under sub-section (1) shall be levied at the first stage of the sale thereof and on the issue of such notification, the tax on such goods shall be levied accordingly:

Provided that no sale of such goods at a subsequent stage shall be exempt from tax under this Act unless the dealer effecting the sale at such subsequent stage furnishes to the assessing authority in the prescribed form and manner a certificate duly filled in and signed by the registered dealer from whom the goods were purchased to the effect that the tax on such goods has been paid at the first stage.

Explanation.—For the purposes of this sub-section, the first stage of sale in respect of any goods and in relation to any class of dealers shall be such as may be specified by the Government in the notification.

(3) In this Act, the expression "taxable turnover" means that part of a dealer's gross turnover during any period which remains after deducting therefrom—

(a) his turnover during that period on—

- (i) the sale of goods declared tax free under section 7;
- (ii) sales to a registered dealer of goods, other than sales of goods specified in Schedules 'C' and 'D' or of goods liable to tax at the first stage under sub-section (2), declared by him in a prescribed form as being intended for resale in the Union territory of Himachal Pradesh or in the course of inter-State trade or commerce or sale in the course of export of goods out of the territory of India or of goods specified in his certificate of registration for use by him in the manufacture in Himachal Pradesh of any goods, other than goods declared tax free under section 7 for sale in the Union territory of Himachal Pradesh and on sales to a registered dealer of containers or other materials for the packing of such goods:

Provided that no dealer shall be entitled to make any deduction from his turnover in respect of a sale made by him to a registered dealer with whom composition under sub-section (2) of section 12 has been made and is in force:

Provided further that, in the case of such sales, a declaration duly filled and signed by the registered dealer to whom the goods are sold, containing the prescribed particulars and inscribed on the bill or cash memorandum referred to in sub-section (2) of section 19 is furnished by the dealer who sells the goods:

Provided further that when such goods are used by the dealer to whom these are sold for purposes other than those for which these were sold to him, he shall be liable to pay tax on the purchase thereof at such rate, not exceeding the rate of tax

leviable on the sale of such goods as the Government may, by notification, direct in respect of a class of dealers specified in such notification, notwithstanding that such purchase is not covered by clause (h) of section 2;

(iii) sales to any undertaking supplying electrical energy to the public under a licence or sanction granted or deemed to have been granted under the Indian Electricity Act, 1910, of goods for use by it in the generation or distribution of such energy;

(iv) sales or purchases of goods falling under section 41;

(v) the purchase of goods,—

(a) which are specified in Schedule 'C' and are sold during the year to a registered dealer, or in the course of inter-State trade or commerce or in the course of export out of the territory of India; or

(b) which are referred to in Schedule 'D' and are sold during the year in the course of inter-State trade or commerce or in the course of export out of the territory of India:

Provided that in the case of a sale referred to in sub-paragraph (a) to a registered dealer, a declaration in the prescribed form and duly filled and signed by the registered dealer to whom the goods are sold is furnished by the dealer claiming deduction:

Provided further that the purchase of goods referred to in sub-paragraph (b) remaining unsold within the period specified in that paragraph shall be deemed to be the purchase of the dealer claiming deduction during the year following; and

(vi) such other sales or purchases as may be prescribed; and

(b) the amount of sales tax included in the gross turnover.

(4) Notwithstanding anything contained in this Act, the taxable turnover of any dealer for any period shall not include his turnover during that period in respect of any sale or purchase of declared goods at any stage other than the stage referred to in the second proviso to sub-section (1).

7. (1) No tax shall be payable on the sale of goods specified in the first column of Schedule 'B', subject to the conditions and exceptions, if any, set out in the corresponding entry in the second column thereof and no dealer shall charge sales tax on the sale of goods which are declared tax free from time to time under this section.

Tax free goods.

(2) The Government, after giving by notification not less than thirty days' notice of its intention so to do, may, by like notification, add to or delete from, Schedule 'B', and thereupon Schedule 'B', shall be deemed to be amended accordingly.

8. (1) No dealer shall, while being liable to pay tax under this Act, carry on business as a dealer unless he has been registered and possesses a registration certificate.

Registration of dealers.

(2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority.

(3) If the said authority is satisfied that an application for registration is in order, he shall, in accordance with such rules and on payment of such fees as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form which may specify the class or classes of goods for the purposes of sub-clause (ii) of clause (a) of sub-section (3) of section 6.

(4) The Commissioner may, from time to time, by order, amend or cancel any certificate of registration on—

- (a) information furnished under section 25; or
- (b) information received that the dealer has violated any provision of this Act or rules made thereunder; or
- (c) any other sufficient cause including misuse of the certificate or cessation of liability to payment of tax under this Act:

Provided that no order affecting any person adversely shall be made under this sub-section without affording him a reasonable opportunity of being heard.

(5) When any dealer has paid the amount of penalty imposed under section 35 in respect of any contravention of sub-section (1) of this section, the Commissioner shall register such dealer and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (3) of this section on the dealer's application.

(6) When—

- (a) any business in respect of which certificate has been granted upon application made under sub-section (2) has been discontinued or transferred; or
- (b) the gross turnover of any such business has during each of three consecutive years failed to exceed the taxable quantum; or
- (c) the certificate of registration granted under the Central Sales Tax Act, 1956, to a dealer liable to pay tax by virtue of the provisions of section 5 but who is not otherwise liable to pay tax under section 4 has been cancelled,

the Commissioner shall cancel the registration and the cancellation shall come into force after the expiry of such period as may be prescribed.

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Voluntary
registration.

9. (1) Any dealer except one dealing exclusively in goods declared tax free under section 7 whose gross turnover during a year exceeds 15,000 rupees may, notwithstanding that he may not be liable to pay tax under section 4, apply in the prescribed manner to the prescribed authority for registration under this Act.

(2) The provisions of sub-sections (3) and (4) and clause (a) of sub-section (6) of section 8 shall apply in respect of applications for registration under this section.

(3) Every dealer who has been registered upon application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act whether his gross turnover exceeds the taxable quantum or not.

(4) The registration of a dealer upon application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

(5) Subject to the provisions of sub-section (4), a dealer registered upon application made under this section may apply in the prescribed manner not less than six months before the end of a year to the authority which granted him his certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made; and the said authority shall, unless the dealer is liable to pay tax under section 4, cancel the registration accordingly.

Provisional
registration.

10. (1) Any person intending to establish a business in the Union territory of Himachal Pradesh for the purpose of manufacturing goods of a value exceeding ten thousand rupees a year for sale may, notwithstanding that he is not liable to registration under section 8, apply to the Assessing

Authority in the prescribed form for provisional registration under this Act.

(2) If the assessing authority, after making such inquiry as it may consider necessary, is satisfied as to the bonafide intention of the person making the application, it may grant a provisional certificate of registration in the prescribed form and under such conditions as may be prescribed.

(3) Every person who has been granted a provisional certificate of registration under this section shall, for so long as such certificate is in force, be liable to pay tax under this Act.

(4) A provisional certificate of registration granted under this section shall be in force for such period as may be specified therein or until a certificate under section 8 is granted and the provisions of sub-section (4) of section 8 shall, so far as may be, apply to any such provisional certificate of registration.

(5) If a person who has been granted a provisional certificate of registration under this section fails to establish the business within the period specified in the provisional certificate of registration or fails to comply with any of the conditions specified therein, he shall be liable by order of the assessing authority, to pay a penalty equivalent to one-half of the amount of tax which would have been payable by him in respect of all the purchases of goods made by him within the period specified in the certificate as if he had not been registered under this section.

11. The Commissioner or any officer authorised by him in writing in this behalf, if it appears to him to be necessary so to do for proper realisation of the tax levied under this Act, may impose for the reasons to be recorded in writing as a condition of the issue of a registration certificate to a dealer or of the continuance in effect, of such certificate issued to any dealer a requirement that the dealer shall give security upto an amount and in the manner approved by the Commissioner for the payment of the tax for which he may be or become liable under this Act.

Security
from certain
class of
dealers.

12. (1) Tax payable under the Act shall be paid in the manner herein-after provided at such intervals as may be prescribed.

(2) The Commissioner may, in the public interest and subject to such conditions as he may deem fit, accept from any class of dealers, in lieu of the amount of the tax payable under this Act for any period, by way of composition, a lump sum to be determined and to be paid at such intervals and in such manner as may be prescribed, and thereupon during the period such composition remains in force, the provisions of this Act and the rules made thereunder relating to the filing of returns and the maintenance of accounts by such dealers shall not apply to them.

Payment of
tax and
returns.

(3) Such dealers as may be required so to do by the assessing authority by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed.

(4) Before any registered dealer furnishes the returns required by sub-section 3, he shall, in the prescribed manner, pay into a Government treasury or the Reserve Bank of India the full amount of tax due from him under this Act according to such returns and shall furnish, along with the returns, a receipt from such treasury or bank showing the payment of such amount.

(5) If any dealer discovers any omission or other error in any return furnished by him, he may, at any time, before the date prescribed for the furnishing of the next return by him furnish a revised return, and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment, in the manner prescribed in sub-section (4), of extra amount.

(6) If a dealer fails without sufficient cause to comply with the requirements of the provisions of sub-section (3) or sub-section (4), the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after giving such dealer a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding one and a half times of the amount of tax to which he is assessed or is liable to be assessed under section 14 in addition to the amount of tax to which he is assessed or is liable to be assessed, and where no tax is payable, a sum not exceeding one hundred rupees.

(7) If a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchases or stocks of goods, or has concealed any particulars of his sales or purchases or has furnished to, or produced before, any authority under this Act or the rules made thereunder any account, return or information which is false or incorrect in any material particular, the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after affording such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the tax to which he is assessed or is liable to be assessed, an amount which shall not be less than ten per centum, but which shall not exceed one and a half times of the amount of tax to which he is assessed or is liable to be assessed.

Unauthori-
sed collec-
tion of tax
to be paid
to the
State
Govern-
ment.

13. (1) No dealer, who is not liable to pay tax under this Act shall collect any amount by way of tax under this Act, nor shall a dealer liable to pay tax under this Act make any such collection, except in accordance with the provisions of this Act.

(2) If any dealer, who is not liable to pay tax under this Act, collects any amount purporting to be by way of tax under this Act, such dealer shall pay over to the State Government, within such time and in such manner as may be prescribed, the amount so collected.

(3) If any dealer liable to pay tax under this Act collects tax on any transaction not liable to tax under this Act or in excess of the tax leviable under this Act, such dealer shall pay over to the State Government, in addition to the tax payable, the amount so collected within such time and in such manner as may be prescribed.

(4) If the amount of tax collected by any dealer under sub-section (2) or sub-section (3) is not paid to the State Government within the time, and in the manner, prescribed, shall be recoverable as arrears of land revenue:

Provided that the payment of any claim to such amount made by the person who paid it to such dealer shall be the liability of the State Government.

Assessment
of tax.

14. (1) If the Assessing Authority is satisfied without requiring the presence of dealer or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns.

(2) If the assessing authority is not satisfied without requiring the presence of dealer who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns.

(3) On the day specified in the notice or as soon afterwards as may be, the Assessing Authority shall, after hearing such evidence as the dealer may produce, and such other evidence as the Assessing Authority may require on specified points, assess the amount of tax due from the dealer.

(4) If a dealer, having furnished returns in respect of a period, fails to comply with the terms of a notice issued under sub-section (2), the Assessing Authority shall, within five years after the expiry of such period, proceed to assess to the best of his judgment the amount of the tax due from the dealer.

(5) If a dealer does not furnish returns in respect of any period by the prescribed date, the Assessing Authority shall, within five years after the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of tax, if any, due from the dealer.

(6) If upon information which has come into his possession, the Assessing Authority is satisfied that any dealer has been liable to pay tax under this Act in respect of any period but has failed to apply for registration, the Assessing Authority shall, within five years after the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of tax, if any, due from the dealer in respect of such period and all subsequent periods and in cases where such dealer has wilfully failed to apply for registration, the Assessing Authority may direct that the dealer shall pay by way of penalty, in addition to the amount so assessed, a sum not exceeding one and a half times that amount.

(7) The amount of tax—

(a) due where the returns are furnished without receipt showing full payment thereof, or

(b) assessed under sub-section (1), (3), (4) and (5), less the sum, if any, already paid by the dealer in respect of the said period, or

(c) assessed under sub-section (6) together with the penalty directed to be paid under that sub-section;

shall be paid by the dealer into a Government treasury or the Reserve Bank of India by such date as may be specified in a notice issued by the Assessing Authority for this purpose and the date to be specified shall be not less than thirty days from the date of service of such notice:

Provided that the Assessing Authority may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty, if any, by instalments.

(8) If the tax assessed under this Act or any instalment thereof is not paid by any dealer within the time specified therefor in the notice of assessment or in the order permitting payment in instalments, the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after giving such dealer an opportunity of being heard, impose on him a penalty not exceeding in amount the sum due from him.

(9) Any assessment made under this section shall be without prejudice to any penalty imposed under this Act.

15. (1) If in consequence of definite information which has come into his possession, the Assessing Authority discovers that the turnover of the business of a dealer has been under-assessed or escaped assessment in any year, the Assessing Authority may, at any time within five years following the close of the year for which turnover is proposed to be re-assessed, and after giving the dealer a reasonable opportunity in the prescribed manner of being heard, proceed to reassess the tax payable on the turnover which has been under-assessed or has escaped assessment.

(2) An Assessing Authority or any such authority as may be prescribed, may at any time, within one year from the date of any order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical mistake apparent from the record.

Reassess-
ment of
tax.

Tax and penalty recoverable as arrears of land revenue.

16. The amount of any tax and penalty imposed under this Act, which remains unpaid after the due date, shall be recoverable as arrears of land revenue.

Period of limitation for completion of assessment or reassessment not to apply to certain cases.

17. (1) Notwithstanding the provisions relating to the period of limitation contained in section 14 or section 15 or in any other provision of this Act, assessment or re-assessment may be made at any time in consequence of, or to give effect to, any order made by any court or other authority under this Act.

(2) Where the assessment proceedings relating to any dealer remained stayed under the orders of any court or other authority for any period, such period shall be excluded in computing the period of limitation for assessment or re-assessment specified in section 14 or section 15 or in any other provision of this Act.

Refunds.

18. The Assessing Authority shall in the prescribed manner refund to a registered dealer applying in this behalf any amount of tax paid by such dealer under this Act—

- (a) if the amount of tax so paid is in excess of the amount due from him under this Act; or
- (b) if the amount of tax so paid is in respect of the sale or purchase of any declared goods and such goods are sold in the course of inter-State trade or commerce;

either by a refund voucher or at the option of the dealer by deduction of the tax so paid from the amount of tax due from him in respect of any other period:

Provided that the refund under clause (b) shall be subject to such conditions as may be prescribed:

Provided further that no refund under this section shall be allowed unless the claim for refund is made within a period of three years from the date on which such claim accrues.

Explanation.—For the purposes of this section, the expression “declared goods” and “in the course of inter-State trade or commerce” shall have the meanings assigned to them by clause (c) of section 2 and section 3 respectively of the Central Sales Tax Act, 1956.

Accounts.

19. (1) Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (3) of section 12 shall keep a true account of the value of goods bought and sold by him, and if the Assessing Authority considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts including records of sales as he may, subject to anything that may be prescribed in that behalf in writing, direct.

(2) Every registered dealer shall,—

- (a) in respect of goods, exceeding ten rupees in value in any one transaction, sold by him or on his behalf, issue to the person to whom they are sold, a cash memorandum or bill serially numbered bearing the name and address of the dealer, the date of sale and the signature of such dealer or his servant, manager or agent and showing the particulars of goods so sold and price thereof;

Provided that where any registered dealer sells goods to another registered dealer and claims deduction under sub-clause (ii) of clause (a) of sub-section (3) of section 6, he shall, in respect of such sale, prepare a cash memorandum or bill in quadruplicate and issue a copy thereof to the other registered dealer; and

(b) preserve a carbon copy of such cash memorandum or bill for a period of not less than five years from the date of issue thereof:

Provided that the Government may, by notification, exempt any class of registered dealers from the provisions of this sub-section.

(3) Where any dealer contravenes the provisions of sub-section (1) or sub-section (2), the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after affording such dealer a reasonable opportunity of being heard, impose upon him a penalty which may extend to five hundred rupees.

20. (1) The Commissioner or any person appointed to assist him under sub-section (1) of section 3 not below the rank of an Assistant Excise and Taxation Officer may, for the purposes of this Act, require any dealer referred to in section 12 to produce before him any book, document or account relating to his business and may inspect, examine and copy the same and make such enquiries from such dealer relating to his business as may be necessary:

Production and inspection of books, documents and accounts.

Provided that books, documents and accounts of a period more than five years prior to the year in which assessment is made shall not be so required.

(2) Every registered dealer shall—

(a) maintain day to day accounts of his business;

(b) maintain a list of his account books, display it along with his registration certificate and furnish a copy of such list to the Assessing Authority;

(c) produce, if so required, account books of his business before the Assessing Authority for authentication in the prescribed manner;

(d) retain his account books at the place of his business unless removed therefrom by an official for inspection, by any official agency, or by auditors, or for any other reasons which may be considered to be satisfactory by the Assessing Authority.

(3) If any officer referred to in sub-section (1) has reasonable grounds for believing that any dealer is trying to evade liability for tax or other dues under this Act, and that anything necessary for the purpose of an investigation into his liability may be found in any books, account, register or document, he may seize such book, account, register or document as may be necessary. The officer seizing the book, account, register or document shall forthwith grant a receipt for the same and shall,—

(a) in the case of book, account, register or document which was being used at the time of seizing, within a period of ten days from the date of seizure; and

(b) in any other case, within a period of sixty days from the date of seizure;

return it to the dealer or the person from whose custody it was seized after examination or after having such copies or extracts taken therefrom as may be considered necessary, provided the dealer or the aforesaid person gives a receipt in writing for the book, account, register or document returned to him. The officer may, before returning the book, account, register or document, affix his signatures and his official seal at one or more places thereon, and in such case, the dealer or the aforesaid person will be required to mention

in the receipt given by him the number of places where the signatures and seal of such officers have been affixed on each book, account, register or document.

(4) For the purposes of sub-section (2) or sub-section (3), an officer referred to in sub-section (1) may enter and search any office, shop, godown, vessel, vehicle, or any other place of business of the dealer or any building, dwelling house, or place where such officer has reason to believe that the dealer keeps or is, for the time being, keeping any books, accounts, registers, documents or goods relating to his business:

Provided that no entry or search in the dwelling house shall be made—

- (i) after the sunset and before the sunrise;
- (ii) by an officer below the rank of an Excise and Taxation Officer; and
- (iii) without obtaining the sanction of the Deputy Commissioner within whose jurisdiction such house is situated.

(5) The power conferred by sub-section (4) shall include the power to open and search any box or receptacle in which any books, accounts, registers or other relevant documents of the dealer may be contained.

(6) Any officer empowered to act under sub-section (3) or sub-section (4) shall have power to seize any goods which are found in any office, shop, godown, vessel, vehicle or any other place of business or any building or place of the dealer, but not accounted for by the dealer in his books, accounts, registers, records and other documents.

Assessee permitted to attend through authorised agent etc.

21. (1) Any assessee or dealer, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend by person authorised by him in writing in this behalf, being a relative or a person regularly employed by the assessee, or a lawyer or accountant or income-tax practitioner and not being disqualified by or under sub-section (3).

(2) In this section an "income-tax practitioner" means any person, who before the commencement of this Act attended before any assessing or other sales tax authorities in connection with any proceedings under the Punjab General Sales Tax Act, 1948, or the East Punjab General Sales Tax Act, 1948 as in force in Himachal Pradesh on behalf of any assessee, otherwise than in the capacity of an employee or relative of that assessee, or who has passed any accountancy examination recognised in this behalf, by the Central Board of Revenue, or holds a degree in Commerce, Law, Economics or Banking including auditing conferred by any Indian University, incorporated by any law for the time being in force, Rangoon University, English and Welsh Universities.

46 of 1948

(3) No person, who has been dismissed from Government service, shall be qualified to represent any dealer under sub-section (1).

(4) If any practitioner or other person who represents any assessee, is found guilty of misconduct in any proceedings before any authority under this Act by the Commissioner, the Commissioner may direct that he shall be disqualified to represent a dealer under sub-section (1):

Provided that no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard.

(5) Any person against whom any direction as aforesaid is made by the Commissioner, may within thirty days of the making of such a direction, appeal to the Financial Commissioner, to have the direction cancelled.

22. (1) If, with a view to preventing or checking evasion of tax under this Act in any place or places in the Union territory of Himachal Pradesh, the Government considers it necessary so to do, it may, by notification, direct the establishment of a check post or the erection of a barrier or both, at such place or places as may be notified.

Establishment of check posts or barriers and inspection of goods in transit.

(2) The owner or person in-charge of a goods vehicle or vessel shall carry with him a goods vehicle record, a trip sheet or a log book, as the case may be, and a bill of sale or a delivery note containing such particulars as may be prescribed in respect of the goods carried in the goods vehicle or vessel, as the case may be, and produce the same before an officer in-charge of a check post or barrier or any other officer of the department not below the rank of an Assistant Excise and Taxation Officer checking the vehicle or vessel at any other place.

(3) The owner or person in-charge of a goods vehicle or vessel entering the limits of Himachal Pradesh or leaving such limits shall also give in triplicate a declaration containing such particulars as may be prescribed of the goods carried in such vehicle or vessel, as the case may be, before the officer in-charge of the check post or barrier and shall produce the copy of the said declaration duly verified and returned to him by the officer in-charge of the check post or barrier before any other officer as mentioned in sub-section (2):

Provided that where a goods vehicle or vessel bound for any place outside the Union territory of Himachal Pradesh passes through that Union territory, the owner or any person in-charge of such vehicle or vessel shall also obtain a transit slip (rahdari) in the prescribed form from the officer in-charge of the check post or barrier of his entry into the said Union territory and deliver it to the officer in-charge of the check post or barrier at the point of his exit from the said Union territory failing which it shall be presumed that the goods have been sold within the said Union territory.

(4) At every check post or barrier or at any other place when so required by any other officer referred to in sub-section (2) in this behalf, the driver or any other person in-charge of the goods vehicle or vessel shall stop the vehicle or vessel, as the case may be, and keep it stationery as long as may reasonably be necessary, and allow the officer in-charge of the check post or barrier or the officer as aforesaid to examine the contents in the vehicle or vessel by breaking open the package or packages, if necessary, and inspect all records relating to the goods carried which are in the possession of such driver or other person in-charge, who shall also furnish such other information as may be required.

(5) At every station of transport of goods, bus stand or any other station or place of loading or unloading of goods, other than a rail head or a post office, when so required by the Commissioner or any person appointed to assist the Commissioner under sub-section (1) of section 3, the driver or the owner of the goods carrier or the employee of a transport company shall produce for examination transport receipts and all other documents and account books concerning the goods carried, transported, loaded, unloaded or consigned or received for transport, and the Commissioner or the person so appointed shall have, for the purpose of examining such transport receipts and other documents and account books are in respect of the goods carried, transported, loaded, unloaded or consigned or received for transport, the power to break open any package or packages of such goods.

(6) Any officer not below the rank of an Assistant Excise and Taxation Officer while acting under this section shall have the power to seize any goods

not covered by the documents mentioned in sub-section (2), sub-section (3) and sub-section (5).

(7) No dealer or any person, including a carrier of goods, acting on behalf of a dealer, shall take delivery of, or transport from, any vessel, station, airport or any other place, whether of similar nature or otherwise, notified in this behalf by the Government, any consignment of goods, the sale or purchase of which is taxable under this Act except in accordance with such conditions as may be prescribed with a view to ensuring that there is no evasion of the tax imposed by or under this Act:

Provided that no place which is a rail head or a post office shall be so notified by the Government.

(8) Where the declaration made under sub-section (3) is false in respect of any particulars furnished therein, the officer in-charge of the check post or barrier or any other officer not below the rank of an Assistant Excise and Taxation Officer shall have the power to seize the goods in respect of which the declaration is false:

Provided that the officer acting under sub-section (6) or sub-section (8) may, before or after such seizure, give to the person affected an option to pay, in lieu of seizure and in addition to the tax recoverable, a sum of money not exceeding one thousand rupees or double the amount of tax recoverable, whichever is greater.

Explanation.—In this section, the expression “goods vehicle” has the same meaning as is assigned to it in clause (8) of section 2 of the Motor Vehicles Act, 1939, but does not include road transport plying in collaboration with rail transport.

4 of 1939

Power to call for information from banking companies etc.

23. The Commissioner or any other person appointed to assist him under sub-section (1) of section 3 may, for carrying out the purposes of this Act, require any person including a banking company, post office or any officer thereof to furnish any information or statement useful for, or relevant to, any proceedings under this Act.

Delegation of powers.

24. Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers under this Act, except those under sub-section (1) of section 31 to any person appointed under section 3 to assist him.

Information to be furnished regarding change of business.

25. If any dealer to whom the provisions of sub-section (3) of section 12 apply,—

- (a) sells or otherwise disposes of his business or any place of business, or
- (b) discontinues or transfers his business or changes his place of business or opens a new place of business, or
- (c) changes the name, (constitution) or nature of his business, or
- (d) wants to make any change in the class or classes of goods specified in his certificate of registration for use in the manufacture of any goods for sale,

he shall, within the prescribed time, inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

Transfer of business.

26. Where the ownership of the business of a registered dealer is entirely transferred and the transferee carries on such business either in its old name or in some other name, the transferee shall, for all the purposes of this Act (except for liabilities under this Act already discharged by such dealer), be deemed to be and to have always been registered as if the

certification of registration of such dealer had initially been granted to the transferee; and the transferee shall on application to the prescribed authority be entitled to have the registration certificate amended accordingly.

27. Should his certificate of registration be cancelled under any provision of this Act, a dealer, save when he has transferred his business to some one else, and notwithstanding clause (h) of section 2 but subject to the provisions of section 7, shall be liable to pay tax on goods purchased by him in the Union territory of Himachal Pradesh after registration, and remaining unsold at the time of cancellation of certificate at a rate leviable for the sale of such goods.

Liability to tax on stock in certain cases.

28. (1) Where a dealer is an undivided Hindu family, firm or other association of persons, and such family, firm or association is partitioned, dissolved or disrupted, as the case may be,—

Liability to tax of a partitioned Hindu family, dissolved firm etc.

(a) the tax payable under this Act by such family, firm or association of persons for the period upto the date of such partition, dissolution or disruption may be assessed as if no such partition, dissolution or disruption had taken place and all the provisions of this Act shall apply accordingly; and

(b) every person who was, at the time of such partition, dissolution or disruption, a member or partner of an undivided Hindu family, firm or association of persons shall, notwithstanding such partition, dissolution or disruption, be liable severally and jointly for the payment of the tax including interest and penalty, if any, payable under this Act by such family, firm or association of persons, whether assessment is made prior to or after such partition, dissolution or disruption.

(2) Where the registration certificate of a dealer is cancelled under this Act in any case, other than that of a partition of undivided Hindu family or dissolution or disruption of a firm or association of persons, the tax payable under this Act by such dealer for the period upto the date of cancellation of the registration certificate may be assessed on such dealer as if no such cancellation had taken place and all the provisions of this Act shall apply accordingly.

29. No assessment made and no order passed, under this Act, or the rules made thereunder, by the Commissioner or any person appointed under section 3 to assist him shall be called into question in any civil court, and, save as is provided in sub-section (5) of section 21 and sections 30, 31 and 33, no appeal or application for revision shall lie against any such assessment or order.

Bar of certain proceedings.

30. (1) Any dealer aggrieved by any notice issued under sub-section (7) of section 14 or by any order passed by the Assessing Authority, under this Act, may in the prescribed manner, appeal to the prescribed authority within sixty days from the date of receiving such notice or order:

Appeal.

Provided that no appeal shall be entertained by such authority unless he is satisfied that the amount of tax assessed and the penalty, if any, imposed on the dealer has been paid:

Provided further that if such authority is satisfied that the dealer is unable to pay the tax assessed or the penalty, if any, imposed or both, he may for reasons to be recorded in writing, entertain an appeal without the tax or penalty or both having been paid.

(2) Subject to such rules of procedure as may be prescribed, the said authority may pass such orders in relation thereto as he may think fit.

Revision.

31. (1) The Commissioner may, of his own motion or on application made to him, call for the record of any proceedings which are pending before, or have been disposed of by, any assessing or appellate authority appointed under this Act, for the purpose of satisfying himself as to the legality or propriety of such proceedings or of any order made therein and may pass such orders in relation thereto as he may think fit:

Provided that the application shall be made within a period of 180 days of the date of taking of the proceedings or of passing of the order, as the case may be.

(2) The Government may, by notification, confer upon any officer the powers of the Commissioner under sub-section (1). The officer on whom powers of the Commissioner under sub-section (1) have been conferred by the Government shall exercise those powers subject to such conditions, and in respect of such areas, as may be specified in the notification.

(3) The Commissioner may, after giving notice to the parties concerned, review his own order.

(4) The Financial Commissioner may at any time call for the record of any case decided under the preceding sub-section and if, in his opinion, the final order contains an erroneous decision of an important question of law, he may pass such order on the case as he may think fit.

(5) The Commissioner or the officer on whom powers of the Commissioner under sub-section (1) have been conferred by the Government or the Financial Commissioner before deciding an application under sub-section (1) or sub-section (4), as the case may be, may direct the applicant to deposit, in whole or in part, the amount of tax assessed and the penalty, if any, imposed on him under this Act.

(6) No order shall be made under this section which adversely affects the rights of an assessee or other person upon whom an obligation is imposed by or under this Act, without giving such assessee or other person a reasonable opportunity of being heard.

Review.

32. (1) Any person considering himself aggrieved by an order of any officer under this Act, and who, from the discovery of any new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when such order was made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the order made against him, may apply for a review of such order to the officer who made the order.

(2) The officer may, after giving notice to the parties concerned, review any order made by him on the grounds mentioned in sub-section (1).

Statement
of case to
High
Court.

33. (1) Within 60 days from the passing of an order under section 31 by the Financial Commissioner, affecting any liability of any dealer to pay tax under this Act, such dealer or the Commissioner may, by application in writing accompanied by a fee of one hundred rupees in case the application is made by dealer, require the Financial Commissioner to refer to the High Court any question of law arising out of such order.

(2) If, for reasons to be recorded in writing, the Financial Commissioner refuses to make such reference, the applicant may, within 30 days of such refusal, either—

(a) withdraw his application (and if he does so, the fee paid shall be refunded); or

(b) apply to the High Court against such refusal.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied of the correctness of the Financial

Commissioner's decision, it may require the Financial Commissioner to state the case and refer it, and on the receipt of such requisition, the Financial Commissioner shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Financial Commissioner to make such additions thereto or alterations therein as the court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send to the Financial Commissioner a copy of such judgment under the seal of the court and the signature of the Registrar, and the Financial Commissioner shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the cost (including the disposal of the fee) shall be in the discretion of the court.

(7) The payment of the amount, if any, of the tax due in accordance with the order of the Financial Commissioner, in respect of which an application has been made under sub-section (1), shall not be stayed pending the disposal of such application or any reference made in consequence thereof but if such amount is reduced as the result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 18.

34. The Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents and impounding or detaining them;
- (c) issuing commissions for the examination of witnesses;
- (d) requiring or accepting proof of facts by affidavits;
- (e) such other powers as may be prescribed;

and any proceeding under this Act before the Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 199 of the Indian Penal Code.

35. (1) Whosoever contravenes, or fails to comply with, any of the provisions of this Act or the rules made thereunder or any order or direction made or given thereunder, shall, if no other penalty is provided under this Act for such contravention or failure, be liable to imposition of a penalty, not exceeding two thousand rupees, and where such contravention or failure is a continuing one, to a daily penalty not exceeding fifty rupees during the period of the continuance of the contravention or failure.

(2) An officer of the rank of a Deputy Excise and Taxation Commissioner appointed under sub-section (1) of section 3 may, after affording to the dealer a reasonable opportunity of being heard, impose the penalty mentioned in sub-section (1).

(3) Any person aggrieved by an order passed by an officer under sub-section (2), may within a period of sixty days from the date of such order, appeal to the Commissioner.

(4) Subject to such rules of procedure as may be prescribed, the Commissioner may pass such orders in relation to such appeal as he may think fit.

Power of Commissioner and his assistants to take evidence on oath, etc.

Penalty

5 of 1908

45 of 1860

(5) An order passed in appeal under sub-section (4) may at any time be revised by the Financial Commissioner in the same manner and to the same extent as is provided in sub-sections (3) and 4 of section 31.

Directors
of default-
ing comp-
anies to
be liable
to pay tax,
etc.

36. Where any tax assessed or penalty imposed under this Act on a company cannot be recovered by reason of the company having gone into liquidation or for any other reason, then every person, who was director of such company at any time during the relevant period for which the tax is due or in respect of which the default for which the penalty is imposed was committed, shall be jointly and severally liable for the payment of such tax and penalty unless he proves that the non-payment or non-recovery cannot be attributed to any neglect, mis-feasance or breach of duty on his part in relation to the affairs of the company.

Disposal of
certain
property.

37. Any property seized under this Act, which is not claimed by any person, shall be disposed of in accordance with the provisions of sections 25, 26 and 27 of the Police Act, 1861, as if the officer or authority seizing such property were a police officer:

Provided that if, during the period allowed in accordance with such provisions, any person claims the property, it shall not be released to him unless the tax or penalty or both due in respect of the same under this Act is paid by such person.

Indemnity.

38. No suit, prosecution or other legal proceedings shall lie against any officer or servant of the Himachal Pradesh Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Returns,
etc., to be
confiden-
tial.

39. (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a criminal court, shall, save as provided in sub-section (3), be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as afore-said, be entitled to require any officer, of the Himachal Pradesh Government to produce before it any such statement, return, accounts, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any officer of the Himachal Pradesh Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing contained in this section shall apply to the disclosure of any such particulars in respect of any such statement, return, accounts, document, evidence, affidavit or deposition for the purpose of any investigation or prosecution under this Act or the Indian Penal Code, 1860, or made under any other enactment for the time being in force.

Powers to
make rules.

40. (1) The Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe:—

- (a) the further period after the date of expiry of three consecutive years referred to in sub-section (3) of section 4;
- (b) the taxable quantum for particular classes of dealers under clause (d) of sub-section (6) of section 4;

- (c) the particulars to be contained in a declaration under sub-clause (ii) of clause (a) of sub-section (3) of section 6; the form of such declaration and the manner in which such declaration is to be furnished;
- (d) the other sales, turnover in respect of which may be deducted from a dealer's gross turnover in computing his taxable turnover as defined in section 6;
- (e) the authority to which applications for registration under section 8 or section 9 shall be made;
- (f) the procedure for the payment of fees in respect of, and other matters incidental to, the registration of dealers and granting of certificates of registration, and the form of such certificate under section 8 or section 9 or section 10 and the manner in which security shall be furnished under section 11;
- (g) the intervals at which the conditions subject to which a lumpsum by way of composition may be accepted by the Commissioner from any dealer, the manner in which such lumpsum is to be determined and the manner in which the tax under this Act shall be payable under section 12;
- (h) the returns to be furnished under sub-section (3) of section 12, and dates by which, and the authority to which such returns shall be furnished;
- (i) the time within which and the manner in which tax collected under section 13 shall be paid;
- (j) the date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 14;
- (k) the manner in which refunds under section 18 shall be made;
- (l) the conditions, if any, for issue of direction under section 19;
- (m) the manner of authentication of account books under clause (c) of sub-section (2) of section 20;
- (n) the particulars of bills of sales or delivery notes referred to in sub-section (2) of section 22, the particulars of declaration to be given under sub-section (3) of that section, the form of transit slip (rahdari) referred to in the proviso to that sub-section and the conditions on which delivery of consignment of goods shall be taken under sub-section (7) of that section;
- (o) the restrictions and conditions subject to which the Commissioner may delegate his powers under section 24;
- (p) the authority to which information shall be furnished under section 25;
- (q) the manner in which appeals against assessment may be preferred under section 30;
- (r) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision and review under sections 30, 31 and 32;
- (s) the authority by which and the manner in which cases may be transferred from one Assessing Authority to another and from one appellate authority to another;
- (t) any other matter which is to be, or may be, prescribed;
- (u) the manner in which, and the time within which, applications shall be made, information furnished and notices served, under this Act;
- (v) the procedure for the cancellation and return of certificate of registration.

Provision
in case of
inter-State
trade, etc.

41. Notwithstanding anything contained in this Act:—

- (a) a tax on the sale or purchase of goods shall not be imposed under this Act—
 - (i) where such sale or purchase takes place outside the Union territory of Himachal Pradesh; or
 - (ii) where such sale or purchase takes place in course of import of the goods into, or export of the goods out of, the territory of India;
- (b) a tax on the sale or purchase of any goods shall not be imposed where such sale or purchase takes place in the course of inter-State trade or commerce except in so far as Parliament may by law otherwise provide.

Powers to
exempt.

42. (1) The Government, if satisfied that it is necessary or expedient so to do in the interest of cottage industries, may, by notification, exempt any class of co-operative societies or persons from the payment of tax under this Act on the purchase or sale of any goods subject to such conditions as may be specified in such notification.

(2) Where a notification under sub-section (1) has been issued by the Government:—

- (a) a registered dealer shall not be entitled to charge tax on the sales made to such societies or persons;
- (b) such sales shall not be included in the taxable turnover of such registered dealer notwithstanding anything to the contrary contained in sub-section (3) of section 6; and
- (c) a registered dealer shall be entitled to deduct from his taxable turnover the purchase value of goods specified in Schedule 'C' to the extent such goods are sold by him to such societies or persons notwithstanding anything contained in sub-section (3) of section 6.

(3) Every notification issued under section (1) shall, as soon as may be after it is issued, be laid before the Legislative Assembly.

Powers to
amend
Schedule 'C'
or Schedule
'D'.

43. The Government, after giving by notification not less than 30 days' notice of its intention so to do, may, by notification, add to, or delete from, or otherwise amend Schedule 'C' or Schedule 'D', and thereupon Schedule 'C' or Schedule 'D', as the case may be, shall be deemed to be amended accordingly.

Repeal.

44. (1) The East Punjab General Sales Tax Act, 1948, as extended to the Union territory of Himachal Pradesh by Notification of the Government of India in the Ministry of Home Affairs No. GSR. 767 (8/3/57-Judl-II), dated the 30th August, 1958 and the Punjab General Sales Tax Act, 1948, as in force in the territories transferred to that Union territory under section 5 of the Punjab Re-organisation Act, 1966, are hereby repealed.

46 of 1948

46 of 1948
31 of 1966

(2) The repeal of any of the enactments under sub-section (1) shall not effect:—

- (a) the previous operation of any such enactment, or
- (b) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such enactment, or
- (c) any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Subject to the provisions of sub-section (2), anything done or any action taken, including rules, notifications and orders made, instructions or directions issued or rights acquired and liabilities incurred under any of the enactments repealed under sub-section (1), shall—

- (a) be deemed to have been respectively done, taken, made, issued, acquired and incurred under the corresponding provision of this Act; and
- (b) continue in force unless and until directed otherwise or superseded by anything done or any action taken under this enactment by the State Government or other competent authority.

SCHEDULE 'A'

[See Section 6 (1)]

LIST OF LUXURY GOODS

S. No.	Description of Goods
1.	Motor vehicles including chassis of motor vehicles, motor tyres and tubes and spare parts of motor vehicles and accessories required for use therewith.
2.	Motor cycles and motor cycle combinations, motor scooters, motorettes and tyres, tubes and spare parts of motor cycles, motor cycle combinations, motor scooters, motorettes and accessories required for use therewith.
3.	Refrigerators and air conditioning plants and component parts thereof.
4.	Wireless reception instruments and apparatus, radios and radio-gramophones, electrical valves, accumulators, amplifiers and loud-speakers and spare parts and accessories required for use therewith.
5.	Cinematographic equipment including cameras projectors and sound recording and reproducing equipments, lenses, films and parts and accessories required for use therewith.
6.	Photographic and other cameras and enlargers, lenses, films and plates, papers and cloth and other parts and accessories required for use therewith.
7.	All clocks, timepieces and watches and parts thereof.
8.	All furniture of iron and steel including safe and almirahs.
9.	All furniture other than that of iron and steel.
10.	All arms including rifles, revolvers, pistols and ammunition for the same.
11.	Cigarette cases and lighters.
12.	Dictaphone and other similar apparatus for recording sound and spare parts thereof.
13.	Typewriters, tabulating machines, calculating machines and duplicating machines and parts thereof.
14.	Sound transmitting equipment including telephones and loud-speakers and spare parts thereof.
15.	Binoculars, telescopes and opera glasses.
16.	Gramophones and component parts thereof and records.
17.	Cosmetics, perfumery and toilet goods excluding tooth-paste, tooth powder and soap.
18.	Electrical goods other than electric bulbs, plugs, plug shoes, plug bases, bulb-holders, flexible wires, torches, cells and electrical plant, equipment and their accessories including service meters required for generation, transmission and distribution.

19. Pile carpets.
20. Cutlery (table).
21. Vacuum flasks.
22. Sanitary goods and fittings.
23. Leather goods but not including footwear.
24. Glassware, Glazeware, and Chinaware including crockery.
25. Foreign liquor, Indian made foreign liquor including wines and beer.

SCHEDULE 'B'

(See section 7)

1	2
1. Husk of all foodgrains and pluses	—
2. Vegetables	Except when sold in tins bottles or cartons.
3. Milk	Except condensed and dried milk.
4. Meat, fish and eggs	Except when sold in tins, bottles or cartons.
5. Fresh fruits	—
6. Common salt	Except when sold in sealed containers.
7. Flowers	—
8. Pan	—
9. Books	—
10. Periodicals	—
11. Exercise and drawing books	—
12. Writing slates and slate pencils	—
13. Writing chalks and crayons	—
14. Foot-rules of the type usually used in schools.	—
15. All varieties of cotton, woollen or silken textiles, including rayon, artificial silk or nylon, whether manufactured by handloom or powerloom or otherwise, but not including handloom silk, silk fabrics, carpets, druggests, woollen durees and cotton floor durees.	—
16. All varieties of textiles covered by item 15 on which knitting and embroidery work has been done.	—
17. Such varieties of canvas cloth tarpaulines and similar other products, manufactured with cloth as base, as are manufactured in textile mills, powerloom factories and processing factories.	—
18. Leather cloth and inferior or imitation leather cloth ordinarily used in book binding; rubber issued (rubberised) or synthetic water-proof	—

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| fabrics whether single textured, or double textured and book-binding cotton fabrics. | |
| 19. Electric energy | — |
| 20. Motor spirit as defined in the Himachal Pradesh Motor Spirit (Taxation of Sales) Act, 1968. | — |
| 21. Photographs including X-Ray Photographs. | When sold by photographers and radiologists preparing them. |
| 22. Agriculture implements | — |
| 23. Spinning wheel (charkha) and its parts. | — |
| 24. All goods sold to the Indian Red Cross Society and St. John Ambulance Association. | — |
| 25. All goods except foreign liquor, I.M.F. liquor including wines and beer and on which duty is or may be levied under the Punjab Excise Act, 1914 as in force in Himachal Pradesh or the Opium Act, 1878. | — |
| 26. Agricultural or horticultural produce sold by person or a member of his family, grown by himself or grown on any land in which he has an interest whether as owner or usufructuary mortgagee, tenant or otherwise. | — |
| 27. Judicial and non-judicial stamps, entertainment duty stamps, passengers and goods tax stamps and standard water marked petition paper. | — |
| 28. Fertilizers | — |
| 29. Hand spun yarn | When sold by one who deals in hand spun yarn exclusively. |
| 30. Crudely tanned leather called half tanned leather, usually tanned by villagers in villages (other than that tanned in a factory). | — |
| 31. Reori, patashas, gajjaks, misri (candy or cooza), golies, boora, makhanas, marunda and phulian. | — |
| 32. Artificial hearing aids and their accessories. | — |
| 33. Vegetable seed and saplings | — |
| 34. Fodder of every type (dry or green) | — |
| 35. Earthenware made by kumhars | — |
| 36. Kikar bark | — |

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| <p>37. Country made shoes (jootis)</p> <p>38. Takhties used by students in schools</p> <p>39. Sugar</p> <p>40. Bakery goods prepared without using power at any stage.</p> <p>41. Bardana (packing material) and containers.</p> <p>42. Kuth</p> <p>43. All articles of handicrafts and ready made garments made out of handloom cloth by the industrial co-operatives.</p> <p>44. Straw covers</p> <p>45. All articles of handicrafts prepared by the Tibetan Refugees Handicrafts-cum-Production Centre, Dalhousie.</p> <p>46. Edible oils produced from sarson, toria and til in indigenous kohlus, whether worked by animals or human beings</p> <p>47. Poultry feed, that is to say, a mixture of proteins, salts and minerals, vitamins, antibiotics and coccidiostats, whether such mixture contains corbohydrates or not.</p> <p>48. Tobacco whether cured, uncured or manufactured and all its products including biris, cigrattes, cigars.</p> <p>49. Water (aqua pura)</p> <p>50. Condoms</p> | <p>When sold by the maker of such shoes himself or by any other member of his family, provided that the maker does not employ any outside labour or use power at any stage for making the shoes.</p> <p>—</p> <p>—</p> <p>When sold otherwise than in containers and packets sold by bakers dealing exclusively in such goods.</p> <p>When sold by a person who deals exclusively in goods declared tax-free under section 7, but sells packing material and containers only as incidental to his main business.</p> <p>—</p> <p>When sold through the Government Emporium and the sales depots of the Punjab Weavers Apex Co-operative Society Ltd.</p> <p>When sold by manufacturers themselves or through their labour unions.</p> <p>When sold by such centre or any of its branch office.</p> <p>When sold by the owners of such kohlus.</p> <p>—</p> <p>—</p> <p>—</p> <p>When sold through general trade agencies.</p> |
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SCHEDULE 'C'

[See the third proviso to sub-section (1) of section 6]

- (1) Resin (crude pine gum).
- (2) Groundnut.

SCHEDULE 'D'

(See clause (iii) of the second proviso to sub-section (1) of section 6)

Sl. No.	Name of declared goods	Circumstances under which tax to be levied	Stage of levy
1	2	3	4
1.	Cotton, that is to say, all kinds of cotton (indigenous or imported) in its manufactured state, whether ginned or unginned, baled, pressed or otherwise but not including cotton waste.	<p>(i) If imported by a dealer from outside Himachal Pradesh or otherwise received by him in Himachal Pradesh, for sale.</p> <p>(ii) If purchased in Himachal Pradesh.</p>	<p>(i) First sale within Himachal Pradesh by a dealer liable to pay tax under this Act.</p> <p>(ii) First purchase within Himachal Pradesh by a dealer liable to pay tax under this Act.</p>
2.	Oil seeds, that is to say, seeds yielding non-volatile oils used for human, consumption, or in industry, or in the manufacture of varnishes, soaps and the like, or in lubrication, and volatile oils used chiefly in medicines, perfumes, cosmetics and the like.	<p>(i) If imported by a dealer from outside Himachal Pradesh or otherwise received by him in Himachal Pradesh, for sale.</p> <p>(ii) If purchased in Himachal Pradesh</p>	<p>(i) First sale within Himachal Pradesh by a dealer liable to pay tax under this Act.</p> <p>(ii) First purchase within Himachal Pradesh by a dealer liable to pay tax under this Act.</p>
3.	All other declared goods.	<p>(i) If manufactured in Himachal Pradesh.</p> <p>(ii) In all other cases</p>	<p>(i) Sale in Himachal Pradesh by the manufacturer and where the manufacturer is not liable to pay tax under this Act, by the earliest of successive dealers liable to pay tax under this Act.</p> <p>(ii) First sale in Himachal Pradesh by tax under this Act.</p>

STATEMENT OF OBJECTS AND REASONS

At present, there are two different laws in regard to the levy of tax on sale or purchase of goods in force in Himachal Pradesh. One is the Punjab General Sales Tax Act, 1948, which is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. And the other is the East Punjab General Sales Tax Act, 1948 which is in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966. With a view to bringing about uniformity and rationalising the tax structure throughout Himachal Pradesh, it is necessary to enact the aforesaid law afresh for the whole of Himachal Pradesh, repealing the Punjab Acts. This Bill seeks to achieve the object.

SIMLA:
The 9th July, 1968

SUKH RAM,
Development Minister.

FINANCIAL MEMORANDUM

This Bill is likely to yield an additional income of about Rs. 15 lakhs per annum.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 40 of the Bill empowers the Government to make rules in respect of the matters enumerated therein.

RECOMMENDATIONS OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

(Noting paras 108-112 of the Excise and Taxation Department File No. 14-3/67-E&T).

The Administrator having been informed of the subject matter of the Himachal Pradesh General Sales Tax Bill, 1968, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill.
